

## **REMARKS**

### **Status**

Claims 1-41 were originally filed with the application. Pursuant to a restriction requirement, claims 5-39 and 41 were withdrawn from consideration. The present amendment does not cancel any claims but does add new claims 42-45. Accordingly, it is claims 1-4, 40 and 42-45 which are at issue. In addition, Applicant requests rejoinder of claims 5-39 and 41 assuming independent claim 1 is allowable.

### **The Rejection**

In the Office Action mailed October 5, 2009, claims 1-4 and 40 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 1-4 were rejected under 35 U.S.C. §102(b) as being anticipated by, or in the alternative under, 35 U.S.C. §103(a) as being obvious over Isaac (US 2,264,840). Claim 40 was rejected under 35 U.S.C. §103(a) as being unpatentable over Isaac. In addition to these rejections, claim 40 was objected to for the use of improper grammar.

Applicant would like to thank the Examiner for the search of the prior art and the Office Action.

### **Remarks Directed to the Rejection of Claims 1-4 and 40 under 35 U.S.C. §112, Second Paragraph**

Claims 1 and 40 have been amended such that the term “mountable” has been replaced with the term “mounted” and claim 3 has been amended such that the term “the inner face” draws antecedent basis from claim 1. As such, Applicant submits that claims 1-4 and 40 are no longer indefinite for failing to particularly point out and distinctly claim the subject matter which

Applicant regards as the invention. Therefore, Applicant requests that the rejection of claims 1-4 and 40 under 35 U.S.C. §112, second paragraph, be withdrawn.

**Remarks Directed to the Rejection of  
Claims 1-4 under 35 U.S.C. §102(b) or 35 U.S.C. §103(a)**

Independent claim 1 has been carefully amended such that the cutting edges of the first and second cutting members cut by a shearing action along a line of cut and the first and second cutting members are arranged to pivot relative to each other about a pivot axis which is offset from the line of cut. Applicant respectfully submits that offsetting the pivot from the line of cut provides advantages such as those described on page 13, lines 2-11 of the specification, including that of the pivot being “located above any material being cut”.

In contrast, shears such as the tin shears of Isaac have cutting members that are arranged to pivot about an axis on the cutting line such that the pivot passes along the line of cut and/or through the cut material. Such structure can be suitable for cutting sheet metal, however, rigid material such as a cast does not deflect or deform such that features such as a pivot cannot easily pass through the material. As such, the instant invention offsets the pivot from the line of cut and thus ensures that the pivot is offset from the cut material and the movement of the cast-cutter is not impeded by the passage of the pivot through the cut material. Stated differently, the shears of Isaac are intended for cutting sheet metal, such as tin, which is malleable and deflects readily such that the location of the pivot at a conventional location, for example substantially on the line of cut, does not impede the passage of the shears through the cut material. This is not true for a cast cutter.

Support for amended claim 1 can be found in the description as filed at page 2, lines 14-21; page 4, lines 5-6; page 13, lines 2-11; page 13, lines 23-25; Figures 3, 8, 9, 14 and 16-20.

In addition, Applicant respectfully submits that independent claim 1 and all claims depending thereon are no longer anticipated or obvious in light of this prior art reference. Therefore, Applicant requests that the rejection of independent claim 1 and all claims depending thereon be withdrawn and the claims moved towards allowance.

**Remarks Directed to the Rejection of Claim 40 under 35 U.S.C. §103(a)**

Independent claim 40 has been amended similarly to independent claim 1 such that a method for removing a cast from a patient includes providing a cutting assembly with first and second cutting members that cut by a shearing action along a line of cut with the first and second cutting members arranged to pivot relative to each other about a pivot axis which is offset from the line of cut. For the same reasons and arguments given above for independent claim 1, which are hereby incorporated in this section by reference, Applicant respectfully submits that currently amended claim 40 is not obvious in light of Isaac. Therefore, Applicant requests that the rejection of claim 40 under 35 U.S.C. §103(a) be withdrawn and the claim moved towards allowance.

**Remarks Directed to New Claims 42-45**

New claims 42-45 depend upon independent claim 1 which is now believed to be in allowable form. Therefore, claims 42-44 are also believed to be in allowable form. In addition, claims 42 and 43 indicate that the pivot may be above and below the line of cut, respectively, whereas claim 44 recites that the transport of cut material occurs under the pivot without the pivot passing through the material. And finally, claim 45 recites a support member to which the first cutting member is rigidly mounted and to which the second cutting member is pivotally mounted. For these reasons also, Applicant respectfully submits new claims 42-45 are in allowable form.

Support for new claim 42 can be found in the description of the application at page 11, lines 27-31; page 13, lines 4-11; page 13, lines 23-25; page 15, lines 23-29; Figures 3, 8, 9, 14, 18-20, 22, 27-32, 34A and 34B. Support for new claim 43 can be found in the description at page 14, lines 28-32 and Figures 16, 17 and 23-25. Support for new claim 44 can be found in the description at page 13, lines 4-11 and Figures 3, 8, 9, 14, 18-20, 22, 27-30, 34A and 34B. Finally, support for new claim 45 can be found in the description at page 4, lines 16-29 and Figures 3, 8, 14, 18-20, 27-32, 34A and 34B.

### **Conclusion**

In view of the amendments and remarks presented herein, Applicant respectfully submits that all claims are now in condition for allowance. Any questions, comments, or suggestions the Examiner may have which would place the application in still better condition for allowance should be directed to the undersigned attorney.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 07-1180.

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Respectfully submitted,

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